

**2009 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB291)**

Received: **04/19/2010**

Received By: **mshovers**

Wanted: **As time permits**

Companion to LRB:

For: **Senate Chief Clerk 6-2517**

By/Representing: **Rob Marchant**

May Contact:

Drafter: **mshovers**

Subject: **Local Gov't - tax incr financing**

Addl. Drafters:

Extra Copies: **EVM, RAC, SRM**

Submit via email: **YES**

Requester's email: **robert.marchant@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Create a new category of tax incremental district; distressed TID

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**Instructions:**

SB 291, and SA 1 and SA 2, but address the incompatibility of the requirements for amending the project plan (s. 66.1105 (4e) (a) 3. from SA 1 and s. 66.1105 (4e) 4. from SA 2.)

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>      | <u>Jacketed</u>       | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /?           | mshovers<br>04/19/2010 | csicilia<br>04/19/2010 |                        | _____          |                       |                       |                 |
| /1           |                        |                        | rschluet<br>04/19/2010 | _____          | cduerst<br>04/19/2010 | cduerst<br>04/19/2010 |                 |

FE Sent For:

**<END>**

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**Topic:**

Create a new category of tax incremental district; distressed TID

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**Instructions:**

SB 291, and SA 1 and SA 2, but address the incompatibility of the requirements for amending the project plan (s. 66.1105 (4e) (a) 3. from SA 1 and s. 66.1105 (4e) 4. from SA 2.)

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*11 MES 4/19/10*

FE Sent For:

<END>



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa0910/1  
MES:cjs:rs

**SENATE AMENDMENT 1,  
TO 2009 SENATE BILL 291**

October 20, 2009 - Offered by Senator SULLIVAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 8: after that line insert:

3 **9** **3.** Subject to par. (e), the planning commission amends the district's project  
4 plan under sub. (4) (h) 1. to reflect the district's distressed status."

5 **2.** Page 4, line 14: after "request." insert "The notice shall also explain that the  
6 life of a distressed tax incremental district may be extended, that it may receive  
7 excess tax increments from a donor district, and that the life of the donor district may  
8 be extended to provide such increments."

9 **3.** Page 5, line 4: after "subd. 2." insert "The joint review board shall approve  
10 or deny the designation within 30 days after receiving the resolution under subd. 2."

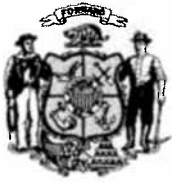
11 **4.** Page 5, line 19: delete "continue to".

12 **5.** Page 6, line 11: after that line insert:

7NS  
6-12  
2  
9  
"SECTION 2m. 66.1105 (4m) (b) 4. of the statutes is amended to read:

66.1105 (4m) (b) 4. Before the joint review board submits its decision under  
3 subd. 3., or sub. (4e) (b) 3., a majority of the members of the board may request that  
4 the department of revenue review the objective facts contained in any of the  
5 documents listed in subd. 1., or sub. (4e) (a) 2. to determine whether the information  
6 submitted to the board complies with this section or whether any of the information  
7 contains a factual inaccuracy. The request must be in writing and must specify which  
8 particular objective fact or item the members believe is incomplete or inaccurate.  
9 Not later than 10 working days after receiving a request that complies with the  
10 requirements of this subdivision, the department of revenue shall investigate the  
11 issues raised in the request and shall send its written response to the board. If the  
12 department of revenue determines that the information in the proposal does not  
13 comply with this section or contains a factual inaccuracy, the department shall  
14 return the proposal to the city. The board shall request, but may not require, that  
15 the city resolve the problems in its proposal and resubmit the proposal to the board.  
16 If the city resubmits its proposal, the board shall review the resubmitted proposal  
17 and vote to approve or deny the proposal as specified in this paragraph.".

18  
~~QND~~



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa1526/4  
MES:jld&nwn:ph

**SENATE AMENDMENT 2,  
TO 2009 SENATE BILL 291**

February 24, 2010 - Offered by Senators VINEHOUT, SULLIVAN and DECKER.

At the locations indicated, amend the bill as follows:

~~1.~~ Page 1, line 3: after "distressed" insert ", or severely distressed,".

~~2.~~ Page 3, line 12: after "DISTRESSED" insert ", OR SEVERELY DISTRESSED,".

~~3.~~ Page 3, line 12: after "to" insert "par. (am) and".

~~4.~~ Page 3, line 12: delete "Subject" and substitute "Before the first day of the 24th month beginning after the effective date of this paragraph .... [LRB inserts date], and subject".

~~5.~~ Page 3, line 14: after "distressed" insert "or severely distressed".

~~6.~~ Page 3, line 15: after "occur" insert "or apply".

~~7.~~ Page 4, line 8: after that line insert:

~~8.~~ The tax incremental district has been in existence for at least 7 years before the local legislative body adopts the resolution under subd. 1.

INS  
4-9, cont

Except as provided in subd. 3.1

(5.49) The local legislative body has not approved an amendment to the tax incremental district's project plan after the effective date of this paragraph .... [LRB inserts date].

(am) To be designated as a severely distressed tax incremental district under par. (a), a district must meet all of the conditions under par. (a) and its value increment in any year must have declined at least 25 percent from the district's highest value increment determined by the department of revenue over the course of the district's life. The joint review board may request that the department of revenue certify that a district meets the decline in value increment percentage described in this paragraph."

8. Page 4, line 12: on lines ~~12, 23 and 24~~, after "distressed" insert ", or severely distressed,"

9. Page 5, line 6: on lines ~~6, 19, 21 and 23~~, after "distressed" insert ", or severely distressed,"

10. Page 5, line 8: after "distressed" insert "or severely distressed".

11. Page 5, line 12: delete lines 12 and 13 and substitute "tax increments for up to 10 years after a district would otherwise be required to terminate, if the district is designated as a distressed district under this subsection, or up to 40 years after the district is created, if the district is designated as a severely distressed district under this subsection."

12. Page 5, line 15: delete "distressed".

13. Page 5, line 16: delete that line and substitute "up to 10 years after the district would otherwise be required to terminate, if the district is designated as a

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23-16  
5-16-08  
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7/5/5-16 p.2 of 2

1 distressed district under this subsection, or up to 40 years after the district is created,  
2 if the district is designated as a severely distressed district under this subsection.”.

3 ~~14.~~ Page 5, line 22: delete “40 years” and substitute “<sup>(10 yr)</sup> 10 years after the district  
4 would otherwise be required to terminate, if the district is sharing its increment with  
5 a district designated as a distressed district under this subsection, or until the donor  
6 district has been in existence for 40 years, if the district is sharing its increment with  
7 a district designated as a severely distressed district under this subsection.”.

8 ~~15.~~ Page 6, line 5: on lines ~~5, 7, 14~~ and ~~16~~, after “distressed” insert “, or  
9 severely distressed,”.

10 ~~16.~~ Page 6, line 11: after that line insert:

11 <sup>(g)</sup> “(g) If any tax increments allocated to a distressed, or severely distressed, tax  
12 incremental district under this subsection exceed the amount needed to meet the  
13 distressed, or severely distressed, district’s annual expenditures identified in its  
14 existing project plan, the excess amount shall be used to retire any outstanding debt  
15 obligations of the district or to establish a reserve fund that may be used only to retire  
16 outstanding debt obligations of the distressed, or severely distressed, district.”.

17 ~~END~~

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0450/?dn

MES.....

(a)  
late

yis

Rob Marchant:

This substitute amendment engrosses SB 291 and SA 1 and SA 2. It makes one change to fix a conflict between one provision of SA 1 and one provision of SA 2.

Item #1 of SA 1 creates s. 66.1105 (4e) 3. and states "3. Subject to par. (e), the planning commission amends the district's project plan under sub. (4) (h) 1. to reflect the district's distressed status." This identical language appears in this substitute amendment.

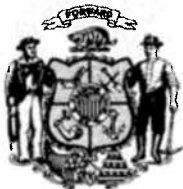
Item #7 of SA 2 stated, in part, "4. The local legislative body has not approved an amendment to the tax incremental district's project plan after the effective date of this paragraph .... [LRB inserts date]."

To resolve the conflict created by Item #1 of SA 1 and Item #7 of SA 2, created s. 66.1105 (4e) (a) 5. of this substitute amendment states "5. Except as provided in subd. 3., the local legislative body has not approved an amendment to the tax incremental district's project plan after the effective date of this paragraph .... [LRB inserts date]."

Please let me know if you have any questions about this substitute amendment.

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State of Wisconsin  
2009 - 2010 LEGISLATURE

50950/1

LBB-12026/3

MES:ajf

SSA

2009 SENATE BILL 291

CS  
RMNR  
D-NOTE

Now

September 16, 2009 - Introduced by Senators SULLIVAN, SCHULTZ, HOLPERIN, KREITLOW and TAYLOR, cosponsored by Representatives MOLEPSKE JR., RIPP, RADCLIFFE, DAVIS, STASKUNAS, BROOKS, TOWNSEND, SOLETSKI, CLARK, ZEPNICK and HINTZ. Referred to Committee on Economic Development.

reg

- 1 AN ACT to amend 20.566 (2) (hm); and to create 66.1105 (4e), 66.1105 (6) (f) 2.
- 2 c. and 66.1105 (7) (au) of the statutes; relating to: authorizing the designation
- 3 of a tax incremental district as distressed, or severely distressed,
- 4 incremental districts.

**Analysis by the Legislative Reference Bureau**

Under the current tax incremental financing program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50 percent of the area to be included in the TID is blighted, in need of rehabilitation or conservation, suitable for industrial sites, or suitable for mixed-use development. Currently, towns also have a limited ability to create a TID under certain circumstances. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax incremental base" value of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the

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base value, a "value increment" is created. That portion of taxes collected on the value increment in excess of the base value is called a "tax increment." The tax increment is placed in a special fund that may be used only to pay back the project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created. Under certain circumstances, the life of the TID and the allocation period may be extended.

Under certain limited circumstances, a TID that has paid off all of its project costs but has not reached its mandatory termination date may become a donor TID, continue to receive tax increments, and forward those increments to a recipient TID created by the same city or village.

Under current law, a planning commission may adopt an amendment to a project plan, which requires the approval of the common council or village board and the same findings that current law requires for the creation of a TID. Current law also authorizes the amendment of a project plan up to four times during a TID's existence to change the district's boundaries by adding or subtracting territory.

This bill authorizes a city or village to designate a TID that was created before October 1, 2008, as a distressed TID if a number of steps occur. The city or village must adopt a resolution finding that its project costs incurred on the TID exceed the revenues the city or village expects the TID to generate during its lifetime. If DOR prescribes any forms that the municipal clerk must complete as part of the distressed TID designation, the clerk shall complete and submit the forms to DOR. The municipal clerk must also send to DOR and the joint review board a copy of the resolution and the related financial data that the city or village used when it adopted its resolution.

Before the city or village may adopt the resolution concerning its project costs, the common council must hold a public hearing at which interested parties may express their views on the proposed distressed TID. Notice of the hearing must be sent to the overlying taxation districts. Following receipt of the resolution and financial data, the joint review board must evaluate the information to determine whether designating the TID as distressed or allowing increment sharing will likely enhance the ability of the city or village to pay its project costs. The resolution adopted by the city or village may not take effect without joint review board approval of the designation. The board may approve or deny the designation.

If the joint review board approves the designation, DOR must certify the designation and notify all overlying taxing jurisdictions of the certification. DOR may impose a \$500 fee on a city or village to administer the city's or village's TID that is so designated.

Under the bill, a distressed TID may continue to exist and receive tax increments, as well as contributions from a donor TID, for up to 40 years after the distressed TID was created. A distressed TID may not amend its project plan to add any additional project costs, add territory, become a donor TID, make any

**SENATE BILL 291**

expenditures after its original expenditure period ends, or expend funds outside of the TID's boundaries. A distressed TID must terminate whenever all of its project costs have been paid off or 40 years after it was created, whichever occurs first. A donor TID must terminate upon the earlier of the distressed TID's termination or 40 years after the donor TID is created

The bill authorizes a mixed-use or industrial TID that has been designated as distressed to receive tax increments from a donor TID. Currently, the recipient TID must be a blighted area or an area in need of rehabilitation, or the project costs in the recipient TID must be used to rehabilitate low-income housing or for environmental contamination remediation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 20.566 (2) (hm) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

20.566 (2) (hm) *Administration of tax incremental, and environmental remediation tax incremental, financing programs.* All moneys received from the fees imposed under ss. 60.85 (5) (a) and (6) (am), 66.1105 (4e) (f), (5) (a), and (6) (ae), and 66.1106 (7) (am) and (13) (b) to pay the costs of the department of revenue in providing staff and administrative services associated with tax incremental districts under ss. 60.85, 66.1105, and 66.1106, and to reimburse a municipality for costs incurred by the municipality related to the department's administration of the tax incremental financing program.

**SECTION 2.** 66.1105 (4e) of the statutes is created to read: (S)  
 66.1105 (4e) ~~DISTRESSED~~ <sup>FOR SEVERELY DISTRESSED</sup> TAX INCREMENTAL DISTRICTS. (a) ~~to~~ <sup>par. (am) and</sup> the limitations in this subsection, a city may designate a tax incremental district that it created before October 1, 2008, as a distressed <sup>or severely distressed</sup> tax incremental district if all of the following occur <sup>or apply</sup>

## SENATE BILL 291

## SECTION 2

1           1. The local legislative body adopts a resolution finding that its project costs  
2 incurred, with regard to the tax incremental district, exceed the amount of revenues  
3 from all sources that the city expects the district to generate to pay off such project  
4 costs during the life of the district.

5           2. The clerk of the local legislative body certifies the resolution and forwards  
6 a copy of the certified resolution and a copy of all of the financial data that the local  
7 legislative body used in the adoption process under subd. 1. to the department of  
8 revenue and the joint review board.

9           (b) 1. Adoption of a resolution under par. (a) 1. shall be preceded by a public  
10 hearing held by the common council at which interested parties shall be afforded a  
11 reasonable opportunity to express their views on the proposed designation of a  
12 distressed tax incremental district. or severely distressed *<use 3x>* Notice of the hearing shall be published as a  
13 class 2 notice under ch. 985. The notice shall describe the resolution and shall advise  
14 that a copy of the resolution will be provided on request. Before publication, a copy  
15 of the notice shall be sent by 1st class mail to the chief executive officer or  
16 administrator of all local governmental entities having the power to levy taxes on  
17 property within the district and to the school board of any school district that  
18 includes property located within the proposed district. For a county with no chief  
19 executive officer or administrator, this notice shall be sent to the county board  
20 chairperson.

21           2. Following receipt of the resolution and the financial data under par. (a) 2.,  
22 the joint review board shall evaluate the resolution and data to determine whether  
23 the designation of the district as a distressed district or the sharing of tax increments  
24 by a donor district with the distressed district is likely to enhance the ability of the  
25 city to pay its project costs related to the district within the time specified in par. (d)

## SENATE BILL 291

2. The joint review board may approve or deny the designation and shall send a written copy of its findings to the common council.

3. A resolution adopted under par. (a) 1. may not take effect unless the joint review board approves, by resolution, the designation under subd. 2. <sup>NOX</sup> <sup>INS 5-4</sup> ✓

(c) If the department of revenue prescribes any forms that the city clerk must complete as part of the designation of a distressed <sup>or severely distressed</sup> tax incremental district, the clerk shall submit the forms to the department on or before December 31 of the year the district is designated as distressed. <sup>use 4x</sup> <sup>or severely distressed</sup> ✓

(d) 1. Notwithstanding the time limits for the allocation of positive tax increments under sub. (6) (a), but subject to sub. (6) (a) 1., and notwithstanding the requirement under sub. (6) (f) 1. b., the department of revenue shall allocate positive tax increments to a distressed tax incremental district for up to 40 years after the district is created. <sup>INS 5-13</sup> <sup>NOX</sup> ✓

2. Notwithstanding the time limits for termination under sub. (7) (ak) to (at), but subject to sub. (7) (a) and (b), a <sup>or</sup> distressed district may remain in existence for up to 40 years after the district is created. <sup>INS 5-16</sup> <sup>NOX</sup> ✓

3. Notwithstanding the time limits and other provisions for termination under sub. (7), a donor tax incremental district under sub. (6) (d), (dm), (e), and (f) may <sup>or</sup> continue to share tax increments with a distressed district until the earlier of the following occurs:

a. The distressed district terminates under sub. (7) (a), (au), or (b).

b. Following its creation, the donor district has existed for <sup>or</sup> 40 years. <sup>INS 5-22</sup> ✓

(e) A distressed tax incremental district may not do any of the following:

1. Amend its project plan to add any new project costs.

2. Become part of a district with overlapping boundaries under sub. (10).

## SENATE BILL 291

## SECTION 2

1 3. Expend any funds outside of the tax incremental district's boundaries.

2 4. Add any territory to the district under sub. (4) (h) 2.

3 5. Become a donor district under sub. (6) (d), (dm), (e), or (f).

4 6. Make any expenditures after its expenditure period, as determined before  
5 its designation as a distressed district expires. *or severely distressed* *use 4x!*

6 (f) If the joint review board approves a designation under par. (b) 3., the  
7 department of revenue shall certify the district as a distressed tax incremental  
8 district and shall send a copy of the certification to the city and to all overlying  
9 taxation jurisdictions. The department may impose a fee of \$500 on a city for each  
10 district in the city that is so designated, for the additional costs incurred by the  
11 department in administering such a district.

12 **SECTION 3.** 66.1105 (6) (f) 2. c. of the statutes is created to read:

13 66.1105 (6) (f) 2. c. The recipient district is a mixed-use or industrial-use  
14 district that has been designated as a distressed district under sub. (4e).

15 **SECTION 4.** 66.1105 (7) (au) of the statutes is created to read:

16 66.1105 (7) (au) With regard to a distressed tax incremental district under sub.  
17 (4e), the time period specified in sub. (4e) (d) 2.

18 **SECTION 5. Effective date.**

19 (1) This act takes effect on October 1, 2009.

20 (END)

*D-NOTE*

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0450/1dn  
MES:cjs:rs

April 19, 2010

Rob Marchant:

This substitute amendment engrosses SB 291 and SA 1 and SA 2. It makes one change to fix a conflict between one provision of SA 1 and one provision of SA 2.

Item #1 of SA 1 creates s. 66.1105 (4e) (a) 3. and, states "3. Subject to par. (e), the planning commission amends the district's project plan under sub. (4) (h) 1. to reflect the district's distressed status." This identical language appears in this substitute amendment.

Item #7 of SA 2 stated, in part, "4. The local legislative body has not approved an amendment to the tax incremental district's project plan after the effective date of this paragraph .... [LRB inserts date]."

To resolve the conflict created by Item #1 of SA 1 and Item #7 of SA 2, created s. 66.1105 (4e) (a) 5. of this substitute amendment states, "5. Except as provided in subd. 3., the local legislative body has not approved an amendment to the tax incremental district's project plan after the effective date of this paragraph .... [LRB inserts date]."

Please let me know if you have any questions about this substitute amendment.

Marc E. Shovers  
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